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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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## CHAPTER LXXI.

## PETIT JURIES.

1 SECTION 1. A petit jury is a body of twelve men em-  
 2 panned and sworn, in a district court, to try and deter-<sup>1863-p. 73, Sect. 1.</sup> c 30  
 3 mine, by a true and unanimous verdict, any question or is-  
 4 sue of fact, in any civil or criminal action or proceeding ac-  
 5 cording to law and the evidence as given them in court.

1 SECT. 2, A number of petit jurors not less than twenty-  
 2 four, shall be drawn for each general term of the district<sup>1863-p. 74, Sect. 2.</sup>  
 3 court, and no greater number shall be drawn unless the<sup>Amended.</sup>  
 4 court otherwise order, but in no case shall more than thirty-  
 5 six petit jurors be drawn.

1 SECT. 3. The qualifications and disabilities of petit ju-  
 2 rors shall be the same as those prescribed by law for grand<sup>1863-p. 74, Sect. 3.</sup>  
 3 jurors.

1 SECT. 4. The petit jurors shall be drawn and summon-  
 2 ed at the same time and in the same manner as is by<sup>1863-p. 74, Sect. 4.</sup>  
 3 law prescribed for the drawing and summoning of grand  
 4 jurors.

1 SECT. 5. The judge of the district court may, at least  
 2 thirty days before the time for holding a general term of<sup>1863-p. 74, Sect. 5.</sup>  
 3 said court, order a number of petit jurors greater than<sup>Amended.</sup>  
 4 twenty-four and not exceeding thirty-six, to be drawn and  
 5 summoned for such term, and upon such order being made  
 6 and entered upon record in the office of the clerk of the  
 7 court in the county where such term is to be held, such  
 8 clerk shall draw and issue a venire for the number of jurors  
 9 mentioned in such order.

1 SECT. 6. At the opening of the court the clerk shall  
 2 prepare separate ballots containing the names of the per-<sup>1863-p. 74, Sect. 6.</sup>  
 3 sons summoned as petit jurors, which shall be folded as  
 4 nearly alike as possible, and so that the name cannot be  
 5 seen, and be deposited in a sufficient box.

1 SECT. 7. When an indictment is called for trial, and  
 2 before drawing the jury, either party may require the<sup>C. S. p. 770, Sect. 7.</sup> c 112  
 3 names of all the jurors in the panel to be called, and that an  
 4 attachment issue against those who are absent; but the

5 court may, in its discretion, wait or not, for the return of  
6 the attachment.

c112 C. S. p. 770, Sect. 8

1 SECT. 8. Before the name of any juror is drawn, the box  
2 shall be closed, and shaken so as to intermingle the ballots  
3 therein, the clerk shall then, without looking at the ballots,  
4 draw them from the box through a hole in the lid, so large  
5 only as conveniently to admit the hand.

C. S. p. 770, Sect. 9

1 SECT. 9. When the jury are completed, the ballots con-  
2 taining the names of the jurors sworn shall be laid aside,  
3 and kept apart from the ballots containing the names of the  
4 other jurors, until the jury so sworn are discharged.

C. S. p. 770, Sect. 10.

1 SECT. 10. After the jury are so discharged, the ballots  
2 containing their names shall be again folded and returned to  
3 the box; and so on, as often as a trial is had.

C. S. p. 770, Sect. 11.

1 SECT. 11. If a juror is absent when his name is drawn,  
2 or is set aside, or excused from serving on the trial, the bal-  
3 lot containing his name shall be folded and returned to the  
4 box as soon as the jury is sworn.

C. S. p. 770, Sect. 12.

1 SECT. 12. When, by reason of challenge or otherwise,  
2 a sufficient number of jurors duly drawn and summoned,  
3 cannot be obtained for the trial of any cause, the court shall  
4 cause jurors to be returned from the by-standers, or from  
5 the county at large, to complete the panel.

C. S. p. 770, Sect. 13.

1 SECT. 13. The jurors so returned from the by-standers,  
2 shall be returned by the sheriff or his deputy, or by a coro-  
3 ner, or by any disinterested person appointed therefor by  
4 the court.

C. S. p. 770, Sect. 14.

1 SECT. 14. The persons so returned shall be such as are  
2 qualified and liable to be drawn as jurors, according to the  
3 provisions of law.

## STRUCK JURIES.

c31 1864-p. 79, Sect. 1.  
Amended.

1 SECT. 15. Whenever a struck jury is deemed necessa-  
2 ry, by either party, for the trial of the issue in any action or  
3 proceeding in the district court, or brought there by appeal  
4 or otherwise, such party may file with the clerk of the court,  
5 a demand in writing for such jury, whereupon such clerk  
6 shall forthwith deliver a certified copy of such demand to  
7 the sheriff of the county, who shall give to both parties, four  
8 days notice of the time of striking the same. At the time  
9 designated, said sheriff shall attend at his office, and  
10 in the presence of the parties, or their attorneys, or such

11 of them as attend for that purpose, shall select from  
 12 the number of persons qualified to serve as jurors within  
 13 the county, forty such persons as he shall think most indif-  
 14 ferent between the parties, and best qualified to try such  
 15 issue; and then the party requiring such jury, his agent or  
 16 attorney shall first strike off one of the names, and the op-  
 17 posite party, his agent or attorney another, and so on alter-  
 18 nately, until each have struck out twelve. If either party  
 19 shall not attend in person, or by attorney, the sheriff shall  
 20 strike for the party not attending. When each party  
 21 has stricken-out twelve names, as aforesaid, the sheriff shall  
 22 make a fair copy of the names of the remaining sixteen per-  
 23 sons, and certify the same under his hand to be the list of  
 24 jurors struck for the trial of such cause or proceeding, and  
 25 shall deliver the same to the clerk, who shall thereupon  
 26 issue and deliver to the sheriff or other officer, a venire fa-  
 27 cias, with the names in said list contained, annexed thereto;  
 28 and such sheriff or other officer, shall summon the persons  
 29 named, according to the command of such writ; and upon  
 30 the trial of the cause, the jury so struck shall be called as  
 31 they stand upon the panel, and the first twelve of them  
 32 who shall appear, and are not challenged for cause, or set  
 33 aside by the court, shall be the jury, and shall be sworn to  
 34 try the issue joined in said cause or proceeding; *Provided*,  
 35 That if a sufficient number does not appear for the trial of  
 36 said cause the court shall cause talesmen to be called as in  
 37 other cases.

1 SECT. 16. If the said sheriff is interested in the cause  
 2 or proceeding, or related to either of the parties, or does  
 3 not stand indifferent between them, the judge of the said  
 4 court may name some judicious and disinterested person to  
 5 strike the jury, and to do and perform all things required  
 6 to be done by such sheriff, relating to the striking of the  
 7 same; but in no case shall it be necessary to strike such  
 8 jury more than six days previous to the term of the court  
 9 at which the action or proceeding is to be tried, and three  
 10 days service of the venire shall be held sufficient.

1864—p. 80, Sect. 2

c 31

1 SECT. 17. The party requiring such struck jury, shall  
 2 pay the fees for striking the same, and the legal fees for  
 3 mileage and attendance, for each juror so attending, and  
 4 shall not have any allowance therefor in the taxation of  
 5 costs.

1864—p. 80, Sect. 3.

1 SECT. 18. A jury struck for the trial of any issue at a  
 2 particular term of the court, may be continued with the con-  
 3 tinuance of the cause, and summoned as jurors at a subse-  
 4 quent term, provided both parties consent thereto, but not  
 5 otherwise.

1864—p. 80, Sect. 4.

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1864—p. 80, Sect. 5.

1 SECT. 19. The provisions of this title shall not extend  
2 to the trial of any indictment for any offence where the  
3 party indicted is entitled to challenge peremptorily, or  
4 without cause shown, more than two jurors.

CHAPTER LXXII.  
OATHS AND ACKNOWLEDGMENTS.

TITLE I.

OF PERSONS REQUIRED TO TAKE OATHS, WHO MAY ADMINISTER  
THE SAME, AND THE FORMS THEREOF.

New.

1 SECTION 1. Every person elected or appointed to any pub-  
2 lic office, whether executive, legislative or judicial, all county  
3 and local officers, their deputies, clerks and assistants, clerks of  
4 court, referees, commissioners, arbitrators, and assessors  
5 shall, before entering on the discharge of their official du-  
6 ties, take and subscribe an oath as hereinafter prescribed.

New.

1 SECT. 2. When no other provision is made by law,  
2 oaths of office may be administered by any judge or justice  
3 of the peace, or the presiding officer, secretary or clerk of  
4 either house of the legislature.

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1863.  
C. S. p. 158, Sect. 31;  
C. S. p. 398, Sect. 8;  
C. S. p. 406, Sect. 75;  
1865—p. 126, Sect. 2,  
last clause, com-  
bined & amended.

1 SECT. 3. Judges of the supreme and district courts, and  
2 courts of probate, the clerks of said courts, all committees  
3 of the legislature or either branch thereof, all commission-  
4 ers, referees and committees or persons appointed by any of  
5 said courts, are authorized to administer any oath neces-  
6 sary to be taken for the establishment of truth or the fur-  
7 therance of justice in any matter coming before such court,  
8 board, commission or person for investigation.

New.

1 SECT. 4. The usual mode of administering oaths now  
2 practiced in this state, with the ceremony of holding up the  
3 hand, shall be observed in all cases in which an oath may be  
4 administered by law, except as hereinafter provided.

1 SECT. 5. The following are the forms of oaths to be ad-  
2 ministered to officers and persons as hereinafter provided :